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IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 2ND DAY OF JUNE 1998

BEFORE :

THE HON'BLE MR.JUSTICE TIRATH S.THAKUR

WRIT PETITION No.1001/1998.

BETWEEN :-

Sri.P.Narayana Reddy,  
S/o late Papaiah Reddy,  
Major, Residing at  
Doddakannahalli village,  
Carmel Ram Post,  
Varthur Hobli,  
Bangalore South Taluk,  
BANGALORE-560 035.

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...Petitioner.

( By Sri.M.Shiva Prakash, Adv., )

A N D :

1. The State of Karnataka,  
by its Chief Secretary,  
Vidhana Soudha,  
BANGALORE - 560 001.
2. The Secretary,  
Department of Forest,  
Ecology & Environment,  
M.S.Building,  
BANGALORE-560 001.
3. The Director,  
Country & Town Planning  
Authority, Visweswaraiah Tower,  
BANGALORE-560 001.
4. The Secretary,  
Housing & Urban Development  
Authority,  
BANGALORE.

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5. The Chairman,  
Karnataka State Pollution  
Control Board,  
Public Utility Building,  
BANGALORE.
6. The Special Deputy Commissioner,  
Bangalore Urban District,  
Hudson Circle,  
BANGALORE.
7. The Chairman,  
Karnataka Electricity Board,  
Cauvery Bhavan,  
BANGALORE -560 009.
8. The Secretary,  
Doddakannalli Grama Panchyath,  
Varthus Hobli,  
Bangalore South Taluk.
9. M/s.Indus Textile Limited,  
No.78/2, Doddakammanahalli  
village,  
Sarjapur Road,  
BANGALORE-560 035.

...Respondents.

( By Sri.Basava Prabhu Patil, for R-9;  
M/s.Vijay Shankar Associates, for R-5;  
Sri.N.Kumar, for M/s.Kumar & Kumar,  
for R-7, and  
Sri.N.K.Ramesh, for R-1, R-4 & R-6 )

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This writ petition filed praying to declare that the act of R-1 to R-8 more particularly the act of R-5 pollution Control Board, is illegal for acting in contrary to the rules, regulations under the statutes and to initiate appropriate action against the R-9 for closure of the industrial activities, factory activities at Doddakannahalli village and to evict the R-9; etc.,

This writ petition coming on for orders this day, the Court made the following order :

...2/-

O R D E R

Although posted only for orders this writ petition has been heard for final disposal with consent.

2. The 9th Respondent-Company M/s. Industry Textiles Limited has established an Industrial Unit for the manufacture of Cotton Textile Fabrics at Doddakannalli, on the Sarjapur Road at Bangalore. The petitioner who owns his residential house in the vicinity of the said Unit appears to have filed a complaint before the Karnataka Pollution Control Board on the 11th of February, 1997, inter alia alleging that the Industry established by the Company was causing air, waste and environmental pollution adversely affecting the inhabitants residing in the area. Having evoked no response the petitioner filed the present writ petition in which his primary grievance was against the alleged inaction of the Pollution Control Board in the matter of taking suitable action against the offending unit. A declaration was also sought to the effect that the setting up of the Industrial Unit in a residential area was illegal besides a mandamus to the Pollution Control Board to initiate appropriate action for its closure. A direction

for disconnection of the electrical supply to the 9th Respondent is one among other incidental reliefs claimed by the Petitioner.

3. When the writ petition initially came up for orders on 27th of March 1998, this Court issued an interim direction asking the Respondent-Pollution Control Board, to expediate proper action in accordance with law against the 9th Respondent on the basis of the complaints received by it from the petitioner and to submit a report to this Court indicating the nature of the action taken within two months from the date of the said order. In compliance with the said direction, Counsel for the Respondent-Board, has submitted a brief note on the action taken by the Board against the offending industry. From a perusal of the report it appears that the Board has taken cognizance of the complaint filed by the petitioner, issued a Notice to the 9th Respondent, inspected the unit and granted a personal hearing to the parties on the 8th of September, 1997 and the 30th of September, 1997. The report further indicates that the Industry was directed to furnish proof of having made an application

for conversion of land and to complete the construction of the affluent treatment plant with a view to minimising the hazards of pollution. The environmental Officer of the Board appears to have thereafter inspected the industry on the 28th of March 1997 and observed that the same had continued operating in violation of the conditions of the temporary consent granted in its favour. The Board had consequently issued a prohibitory order on 4th of November, 1997, u/s. 32(1c) restraining the second Respondent from discharging the effluents directly or indirectly outside the factory premises. Suffice it to say that the Pollution Control Board has monitored the developments from time to time and issued directions depending upon the nature of the violations noticed by it. The Board appears to have eventually fixed a personal hearing for the factory authorities as also the complainants for the 8th of May 1998 on which date while the factory authorities were reported to be present, the complainant did not turn up to associate himself with the proceedings. The note also states that <sup>the</sup> Board is fixing <sup>h</sup> an alternative date for personal hearing in the matter before initiating any further action in terms of the

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provisions of the relevant enactments. It is therefore evident that the Board is seized of the matter and is actively considering the propriety of taking appropriate action after affording to the parties an opportunity of being heard in regard to the same.

4. Counsel for the petitioner argued that no notice of the date fixed for personal hearing was ever issued by the Board to the petitioner and that the Industry had continued its operations despite the directions of the Board to provide for effective measures against Pollution. He urged that the Industry continued to make the life of the inhabitants miserable by creating noise and other environmental pollution. He submitted that this court could keep the present proceedings pending and monitor the further developments in the case to ensure that the Board did not sleep over the matter and that effective steps are taken as required by law. I do not however consider it necessary to keep these proceedings pending in this Court. Whether or not the continuance of the Industry in the area is causing any water, or air, Pollution is a matter which the Pollution Control Board is presently examining. If the Board comes to the conclusion that the Industry has

been established illegally or that it has failed to abide by the norms prescribed for control of pollution, it is expected to take suitable action, in accordance with the provisions of the law, which confers sufficiently wide powers for effecting any such directions. It would therefore be unnecessary for this Court to express any opinion on any one of those aspects. Since the remedy provided by law and the machinery envisaged thereunder is effective I see no reason why this Court should clutch at the jurisdiction of the expert body unless it becomes absolutely to do so or unless the body concerned is shown to have fallen in some palpable error. Such a situation does not exist at present. The report submitted does sufficiently demonstrate the keenness of the Pollution Control Board to take effective steps in the matter. The apprehension<sup>?</sup> expressed by the petitioner that the Board may sleep over the matter can in my opinion be sufficiently allayed in case I direct that the process of verification and evaluation of the unit from the point of view of taking suitable action against it, if any such action is otherwise warranted, shall be finalised within a period of

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three months from today.

5. In the result I partly allow this writ petition and direct the 5th Respondent-Board to take the proceedings initiated by it, on the basis of the complaint filed by the petitioner to their logical conclusion in accordance with the procedure established by law and to pass effective orders on the same within a period of three months from today. Since the Board has not yet fixed a fresh date for grant of a personal hearing to the parties I direct that the said hearing shall be granted to both the parties on the 16th of June, 1998 at 10.30 a.m. The parties are directed to appear before the Chairman of the Respondent-Board on the said date and time.

6. No costs.

Sd/-  
JUDGE

Abid/-  
Jan/-

